

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U-210-W) (1) to issue, sell and deliver to one or more affiliated entities not exceeding in the aggregate \$187,000,000 of any combination of (a) shares of its common stock and (b) debt securities consisting of long term notes; and (2) exempting the issuance, sale and delivery of such stock and debt securities from the Commission's competitive bidding rule.

Application No. 06-05-005

**MOTION OF THE DIVISION OF RATEPAYER ADVOCATES
TO CONSOLIDATE APPLICATION 06-05-005 WITH
APPLICATION 06-05-022**

I. INTRODUCTION

Pursuant to Rule 45 and 63 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") hereby moves for an order to consolidate Application 06-05-005 with Application ("A.") 06-05-022.

A.06-05-005 seeks Commission approval for California-American Water Company (1) to issue, sell and deliver to one or more affiliated entities not exceeding \$187,000,000 of any combination of (a) shares of its common stock and (b) debt securities consisting of long term notes; and (2) exempting the issuance, sale and delivery of such stock and debt securities from the Commission's competitive bidding rule.

In A.06-05-022, California-American Water Company ("Cal-Am"), RWE Aktiengesellschaft ("RWE"), Thames Water Aqua Holdings GmbH ("Thames Water"), and American Water Works, Inc. ("American Water") seek Commission

authority for the sale by Thames GmbH of up to 100% of the common stock of American Water Works Company, Inc., which would result in a change in control of Cal-Am.

Cal-Am's stock issuance and debt securities application (A.06-05-005) is a consequence of its application (A.06-05-022) for authority for Thames GmbH to sell up to 100% of American Water's common stock, which would result in a change in control of Cal-Am.

Cal Am's stock issuance and debt securities application should be consolidated with the larger, principal application for which it is a derivative of and for commonality of issues, judicial economy, and efficiency.

In this motion, A.06-05-005 will be referred to as Cal-Am's "stock issuance" application and A.06-05-022 will be referred to as its "change in control" application.

II. APPLICATION 06-05-005 IS DERIVATIVE OF APPLICATION 06-05-022 AND THEREFORE SHOULD BE CONSOLIDATED.

Cal-Am in its stock issuance application states, "Due to the pending divestiture of American Water Works from RWE Aktiengesellschaft ("RWE"), all notes payable will be refinanced as part of this request." *See* Page 4. Thus, the divestiture is the basis for Cal-Am's filing of its request for the issuance of long-term notes and shares of common stock to one or more of its affiliates. The proposed change in American Water's ownership from being wholly-owned by RWE to a publicly-traded company triggers a change in how American Water's finance company, American Water Capital Corporation ("AWCC") will obtain its debt. AWCC will then ultimately distribute the debt to American Water's subsidiaries.

Cal-Am states in its change in control application that AWCC in the future must obtain any new capital directly from debt capital markets versus from RWE. *See* Page 7. The stock issuance application states that the stock will be issued to

American Water, Cal-Am's current parent and that AWCC, the sister company of Cal-Am will issue the debt. *See* Page 4-5. Since there is such a definite and direct connection between the two applications, it is important to consolidate the two proceedings to ensure similar issues are not addressed simultaneously and that the proper issues are addressed in one proceeding.

III. COMMONALITY OF ISSUES, JUDICIAL ECONOMY, & EFFICIENCY WARRANT CONSOLIDATION.

In the change in control application, Cal-Am, RWE, Thames Water, and American Water request the approval of the sale of 100% of the shares of common stock of American Water. With the sale of the stock, American Water and its financing subsidiary, AWCC will no longer obtain financing from RWE. The financing for American Water and its subsidiaries will continue to be through AWCC, but AWCC now must obtain any new capital directly from debt capital markets instead of RWE.

The change in control application states, "California American Water filed a separate financing application with the Commission on May 5, 2006 (A.06-05-005), which is currently pending, seeking authorization to refinance mature debt, among other things." *See* Page 7. The "other things" referred to are the sale of stock to American Water and the refinancing referred to are the refinancing of Cal-Am's debt with AWCC, which is maturing and AWCC's debt with RWE, which is also maturing.

Essentially, the refinancing of debt in the stock issuance and change in control applications are the same debt. AWCC will refinance its debt with RWE and Cal-Am will refinance its debt with AWCC. Thus, the main issue in both applications is the refinancing of debt due to the sale of American Water's stock. The cause (sale of American Water stock) and the effect (refinancing of debt) in both applications are one and the same. Therefore, the applications should be consolidated.

And to encourage and promote judicial economy, the two applications should be consolidated to allow the Commission's office of the Administrative Law Judge to be the most efficiently-utilized. There is no need to utilize the resources of two Administrative Law Judges when one will suffice.

Lastly, for efficiency the two applications should be consolidated to ensure that the same issues will not be litigated separately when they can instead be addressed in one proceeding. As described earlier, there is such a direct and clear connection between the two proceedings where it truly would be most logical to consolidate the proceedings.

IV. CONCLUSION

Judicial economy, efficiency, and a commonality of issues warrant the stock issuance and change in control applications be consolidated into one proceeding. A.06-05-005 should be consolidated into A.06-05-022.

Respectfully submitted,

/s/ SELINA SHEK

SELINA SHEK
Staff Counsel

Attorney for the Division of
Ratepayer Advocates

California Public Utilities
Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2423
Fax: (415) 703-2262

June 9, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **MOTION OF THE DIVISION OF RATEPAYER ADVOCATES TO CONSOLIDATE APPLICATION 06-05-005 WITH APPLICATION 06-05-022** in **A.06-05-005** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on June 9, 2006 at San Francisco, California.

/s/ PERRINE D. SALARIOS

Perrine D. Salariosa

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

E-mail addresses for A.06-05-005

LDolqueist@steefel.com

flc@cpuc.ca.gov

mgs@cpuc.ca.gov

rbloor@cpuc.ca.gov

dstephen@amwater.com